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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
EASTERN DIVISION

**MOISES MADRIZ and RODNEY ULLOA, individually and on behalf of all others similarly situated,**

Case No. 5:22-cv-00549

## **Plaintiffs' Original Class and Collective Action Complaint for Damages**

1. Failure to pay overtime compensation (Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*)
2. Failure to pay wages (CAL. LAB. CODE §§ 510, 1194, 1194.5; IWC Wage Orders)
3. Violations of record keeping requirements (CAL. LAB. CODE § 226)
4. Waiting time penalties (CAL. LAB. CODE § 203)
5. Violation of Unfair Competition Law (CAL. BUS. & PROF. CODE §§ 17200, *et seq.*)
6. Civil penalties under the Private Attorneys General Act of 2004 (CAL. LAB. CODE §§ 2698, *et seq.*)

## SUMMARY

1. Like many other companies across the United States, Defendants' timekeeping and payroll systems were affected by the hack of Kronos in 2021.

2. That hack led to problems in timekeeping and payroll throughout Defendants' organizations.

1       3.     As a result, Defendants' workers who were not exempt from the overtime  
2 requirements under federal and state law, were not paid for all overtime hours worked or were  
3 not paid their proper overtime premium after the onset of the Kronos hack.

4. Moises Madriz and Rodney Ulloa are each such workers for Defendants.

5           5. Defendants could have easily implemented a system to accurately record time  
6 and properly pay hourly and non-exempt employees until issues related to the hack were  
7 resolved.

8           6.       But they didn't. Instead, Defendants did not pay their non-exempt hourly and  
9       salaried employees their full overtime premium for all overtime hours worked, as required by  
10      federal and California law.

11           7. Defendants pushed the cost of the Kronos hack onto the most economically  
12 vulnerable people in their workforce.

13 8. Defendants made the economic burden of the Kronos hack fall on front-line  
14 workers—average Americans—who rely on the full and timely payment of their wages to make  
15 ends meet.

16        9. Defendants' failure to pay proper wages for all hours worked, including  
17 overtime hours, violates the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201, *et seq.* and  
18 applicable state law.

19        10.    Madriz and Ulloa bring this lawsuit to recover these unpaid wages and other  
20 damages owed by Defendants to him and Defendants' similar workers, who were the ultimate  
21 victims of not just the Kronos hack, but Defendants' decision to make their own workforce  
22 bear the economic burden for the hack.

## JURISDICTION & VENUE

24 11. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. § 1331  
25 because this action involves a federal question under the FLSA. 29 U.S.C. § 216(b).

26           12. The Court has supplemental jurisdiction over any state law sub-classes pursuant  
27 to 28 U.S.C. § 1337.

13. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), because a substantial part of the events at issue occurred in this District.

14. Madriz and Ulloa worked for Defendants in this District.

## PARTIES

15. Plaintiff Moises Madriz is a natural person.

16. Madriz was, at all relevant times, an employee of Defendants.

17. Madriz began working for Defendants in October 2020.

18. Madriz's written consent is attached as Exhibit 1.

19. Plaintiff Rodney Ulloa is a natural person.

20. Ulloa was, at all relevant times, an employee of Defendants.

21. Ulloa began working for Defendants in February 2017.

22. Ulloa's written consent is attached as Exhibit 2.

23. Madriz and Ulloa represent several groups of similarly situated Defendants

## workers

24. Madriz represents a collective of similarly situated workers under the FLSA pursuant to 29 U.S.C. § 216(b). This “Naked Juice FLSA Collective” is defined as:

All current or former hourly and salaried employees of Naked Juice who were non-exempt under the FLSA and who worked for Naked Juice in the United States at any time since the onset of the Kronos ransomware attack, on or about December 11, 2021, to the present.

25. Ulloa represents a collective of similarly situated workers under the FLSA pursuant to 29 U.S.C. § 216(b). This “Tropicana FLSA Collective” is defined as:

All current or former hourly and salaried employees of Tropicana who were non-exempt under the FLSA and who worked for Tropicana in the United States at any time since the onset of the Kronos ransomware attack, on or about December 11, 2021, to the present.

26. Madriz and Ulloa represent a class of similarly situated employees under California law pursuant to Federal Rule of Civil Procedure 23. This “California Class” is defined as:

1                   **All current or former hourly and salaried employees of PepsiCo, Inc.,**  
2                   **including its subsidiaries and alter egos such as Naked Juice and**  
3                   **Tropicana, who were non-exempt under California law and who**  
4                   **worked for Defendants in California at any time since the onset of**  
5                   **the Kronos ransomware attack, on or about December 11, 2021, to**  
6                   **the present.**

7                   27. Together, throughout this Complaint, the Naked Juice and Tropicana FLSA  
8                   Collective members and California Class members are referred to as the “Similarly Situated  
9                   Workers.”

10                  28. **Defendant PepsiCo, Inc. (“PepsiCo”)** is an foreign corporation.

11                  29. PepsiCo does business in a systematic and continuous manner throughout  
12                   California and this District.

13                  30. PepsiCo may be served by service upon its registered agent, **CT Corporation**  
14                   **System, 330 N. Brand Blvd., Ste. 700, Glendale, CA 91203**, or by any other method allowed  
15                   by law.

16                  31. **Defendant Naked Juice Co.** is an foreign corporation.

17                  32. Naked Juice Co. does business in a systematic and continuous manner  
18                   throughout California and this District.

19                  33. Naked Juice Co. may be served by service upon its registered agent, **CT**  
20                   **Corporation System, 330 N. Brand Blvd., Ste. 700, Glendale, CA 91203**, or by any other  
21                   method allowed by law.

22                  34. **Defendant Naked Juice Co. of Glendora, Inc.** is an foreign corporation.

23                  35. Naked Juice Co. of Glendora, Inc. does business in a systematic and  
24                   continuous manner throughout California and this District.

25                  36. Naked Juice Co. of Glendora, Inc. may be served by service upon its registered  
26                   agent, **CT Corporation System, 330 N. Brand Blvd., Ste. 700, Glendale, CA 91203**, or by  
27                   any other method allowed by law.

28                  37. Together, throughout this Complaint, Naked Juice Co. and Naked Juice Co. of  
29                   Glendora, Inc. are referred to jointly as “Naked Juice.”

30                  38. **Defendant Tropicana Products, Inc.** is an foreign corporation.

1       39.    Tropicana Products, Inc. does business in a systematic and continuous manner  
2 throughout California and this District.

3       40.    Tropicana Products, Inc. may be served by service upon its registered agent,  
4 **CT Corporation System, 1200 S. Pine Island Rd., Plantation, FL 33324**, or by any other  
5 method allowed by law.

6       41.    **Defendant Tropicana Services, Inc.** is an foreign corporation.

7       42.    Tropicana Services, Inc. does business in a systematic and continuous manner  
8 throughout California and this District.

9       43.    Tropicana Services, Inc. may be served by service upon its registered agent, **CT**  
10 **Corporation System, 330 N. Brand Blvd., Ste. 700, Glendale, CA 91203**, or by any other  
11 method allowed by law.

12       44.    Together, throughout this Complaint, Tropicana Products, Inc. and Tropicana  
13 Services, Inc. are referred to jointly as "Tropicana."

14       45.    At all relevant times, PepsiCo exerted operational control over its subsidiaries  
15 and alter egos.

16       46.    At all relevant times, PepsiCo substantially controlled the terms and conditions  
17 of employment for workers of its subsidiaries and alter egos.

18       47.    At all relevant times, PepsiCo had a common control and management of labor  
19 relations regarding employees of its subsidiaries and alter egos.

20       48.    PepsiCo employed and/or jointly employed, with its subsidiaries and alter egos,  
21 Madriz and the Similarly Situated Workers.

22       49.    PepsiCo and its respective subsidiaries and alter egos, like Naked Juice and  
23 Tropicana, are joint employers for purposes of the FLSA. See 29 C.F.R. § 791.2.

24       50.    PepsiCo and its respective subsidiaries and alter egos, like Naked Juice and  
25 Tropicana, are joint employers for purposes of the California law.

26       51.    Madriz and Ulloa are informed and believe and on that basis allege, that at all  
27 relevant times Defendants and Defendants Does #1 through #50 were affiliated, and each  
28 was the principal, agent, servant, partner, officer, director, controlling shareholder, subsidiary,

1 affiliate, parent corporation, successor or predecessor in interest, joint ventures, and/or joint  
 2 enterprises of one or more of Defendants.

3 52. Defendants and Defendants Does #1 through #50 employed and/or jointly  
 4 employed Madriz, Ulloa, and the Similarly Situated Workers.

5 53. Defendants and Defendants Does #1 through #50 are joint employers for  
 6 purposes of the FLSA. *See* 29 C.F.R. § 791.2.

7 54. Defendants and Defendants Does #1 through #50 are joint employers for  
 8 purposes of California law.

9 55. Madriz and Ulloa are unaware of the true names of Defendants Does #1  
 10 through #50, and so Madriz and Ulloa sue those Defendants under said fictitious names  
 11 pursuant to California Code of Civil Procedure section 474. *Lindley v. Gen. Elec. Co.*, 780 F.2d  
 12 797, 802 (9th Cir. 1986).

13 56. Madriz and Ulloa will amend this Complaint to show the true names and  
 14 capacities of such fictitiously named Defendants after the same has been ascertained.

15 57. Because the true names of Defendants Does #1 through #50 are currently  
 16 unknown to him, Madriz and Ulloa refer to such Defendants in this lawsuit collectively with  
 17 their non-fictitiously named joint employers as “PepsiCo,” “Naked Juice,” “Tropicana,”  
 18 and/or “Defendants” throughout this Complaint.

#### 19 COVERAGE UNDER THE FLSA

20 58. At all relevant times, PepsiCo and Naked Juice were employers of Madriz  
 21 within the meaning of Section 3(d) of the FLSA, 29 U.S.C. § 203(d).

22 59. At all relevant times, PepsiCo and Naked Juice were employers of the Naked  
 23 Juice FLSA Collective Members within the meaning of Section 3(d) of the FLSA, 29 U.S.C.  
 24 § 203(d).

25 60. At all relevant times, PepsiCo and Tropicana were employers of Madriz within  
 26 the meaning of Section 3(d) of the FLSA, 29 U.S.C. § 203(d).

27

28

1        61.     At all relevant times, PepsiCo and Tropicana were employers of the Tropicana  
2     FLSA Collective Members within the meaning of Section 3(d) of the FLSA, 29 U.S.C.  
3     § 203(d).

4           62. At all relevant times, Defendants were part of an enterprise within the meaning  
5 of Section 3(r) of the FLSA, 29 U.S.C. § 203(r).

6           63. During at least the last three years, Defendants have each had gross annual sales  
7    in excess of \$500,000.

8           64. During at least the last three years, Defendants were and are part of an  
9 enterprise engaged in commerce or in the production of goods for commerce within the  
10 meaning of the FLSA, 29 U.S.C. § 203(s)(1).

11        65.    PepsiCo and Naked Juice employ many workers, including Madriz, who are  
12 engaged in commerce or in the production of goods for commerce and/or who handle, sell,  
13 or otherwise work on goods or materials that have been moved in or produced for commerce  
14 by any person.

15        66.    PepsiCo and Tropicana employ many workers, including Ulloa, who are  
16    engaged in commerce or in the production of goods for commerce and/or who handle, sell,  
17    or otherwise work on goods or materials that have been moved in or produced for commerce  
18    by any person.

19       67. The goods and materials handled, sold, or otherwise worked on by Madriz,  
20 Ulloa, and other employees of Defendants and that have been moved in interstate commerce  
21 include, but are not limited to, foods and beverages, computers, peripherals, and electronic  
22 equipment.

## FACTS

24 68. Defendants are a food, snack, and beverage corporation.

69 Many of Defendants' employees are non-exempt hourly and salaried workers.

26 70. Since at least 2021, Defendants have used timekeeping software and hardware  
27 operated and maintained by Kronos

71 On or about December 11, 2021, Kronos was hacked with ransomware

1       72. The Kronos hack interfered with the ability of its customers, including  
2 Defendants, to use Kronos's software and hardware to track hours and pay employees.

3       73. Since the onset of the Kronos hack, Defendants have not kept accurate track  
4 of the hours that Madriz and Similarly Situated Workers have worked.

5       74. Instead, Defendants have used various methods to estimate the number of  
6 hours Madriz, Ulloa, and Similarly Situated Workers work in each pay period.

7       75. For example, Defendants issued paychecks based on their scheduled hours, or  
8 simply duplicated paychecks from pay periods prior to the Kronos hack.

9       76. This means that employees who were non-exempt and who worked overtime  
10 were in many cases paid less than the hours they worked in the workweek, including overtime  
11 hours.

12       77. Even if certain overtime hours were paid, the pay rate would be less than the  
13 full overtime premium.

14       78. Madriz and Ulloa are each such employees.

15       79. Instead of paying Madriz and Ulloa for the hours they actually worked  
16 (including overtime hours), Defendants simply paid based on estimates of time or pay, or  
17 based upon arbitrary calculations and considerations **other than** their actual hours worked  
18 and regular pay rates.

19       80. In some instances, Madriz and Ulloa was paid portions of overtime hours  
20 worked, but were not paid at the proper overtime premium of at least 1.5x or 2x the regular  
21 rate of pay, including required adjustments for shift differentials and non-discretionary  
22 bonuses.

23       81. In properly calculating and paying overtime to a non-exempt employee, the  
24 only metrics that are needed are: (1) the number of hours worked in a day or week, and (2)  
25 the employee's regular rate, taking into account shift differentials, non-discretionary bonuses,  
26 and other adjustments required by law.

27       82. Defendants know they have to pay proper overtime premiums to non-exempt  
28 hourly and salaried employees.

1       83. Defendants know this because, prior to the Kronos hack, they routinely paid  
2 these workers for all overtime hours at the proper overtime rates.

3       84. Defendants could have instituted any number of methods to accurately track  
4 and timely pay their employees for all hours worked.

5       85. Instead of accurately tracking hours and paying employees their wages and  
6 overtime, Defendants decided to arbitrarily pay these employees, without regard to the  
7 overtime hours they worked or the regular rates at which they were supposed to be paid.

8       86. Even if they did pay any overtime to affected employees, Defendants did not  
9 take into account shift differentials and non-discretionary bonuses, such that the overtime  
10 premium Defendants did pay, if any, was not the full overtime premium owed under the law  
11 based on the employees' regular rate.

12       87. It was feasible for Defendants to have their employees and managers report  
13 accurate hours so they could be paid the full and correct amounts of money they were owed  
14 for the work they did for the company.

15       88. But they didn't do that.

16       89. In other words, Defendants pushed the effects of the Kronos hack onto the  
17 backs of their most economically vulnerable workers, making sure that Defendants kept the  
18 money they owed to those employees in their own pockets, rather than take steps to make  
19 sure employees were paid on time and in full for the work they did.

20       90. Madriz and Ulloa are two of the front-line employees who had to shoulder the  
21 burden of this decision by Defendants.

22       91. Madriz was a non-exempt hourly employee of PepsiCo and Naked Juice.

23       92. Madriz regularly worked over 40 hours per week for PepsiCo and Naked Juice.

24       93. Madriz's normal, pre-Kronos hack hours are reflected in PepsiCo and Naked  
25 Juice's records.

26       94. Since the Kronos hack, PepsiCo and Naked Juice have not paid Madriz for his  
27 actual hours worked each week.

28

1       95.    Since the hack took place, PepsiCo and Naked Juice have not been accurately  
2 recording the hours worked by Madriz and their other workers.

3       96.    Even though PepsiCo and Naked Juice may have had Madriz record and  
4 submit his hours, Defendants have not issued payment for all hours they have worked.

5       97.    Even when Defendants have issued payment to PepsiCo and Naked Juice for  
6 any overtime, the overtime is not calculated based on Madriz's regular rates, as required by  
7 federal and California law.

8       98.    Ulloa was a non-exempt hourly employee of PepsiCo and Tropicana.

9       99.    Ulloa regularly worked over 40 hours per week for PepsiCo and Tropicana.

10      100.    Ulloa's normal, pre-Kronos hack hours are reflected in PepsiCo and  
11 Tropicana's records.

12      101.    Since the Kronos hack, PepsiCo and Tropicana have not paid Ulloa for his  
13 actual hours worked each week.

14      102.    Since the hack took place, PepsiCo and Tropicana have not been accurately  
15 recording the hours worked by Ulloa and their other workers.

16      103.    Even though Defendants may have had Ulloa record and submit his hours,  
17 PepsiCo and Tropicana have not issued payment for all hours they have worked.

18      104.    Even when PepsiCo and Tropicana have issued payment to Ulloa for any  
19 overtime, the overtime is not calculated based on Ulloa's regular rates, as required by federal  
20 and California law.

21      105.    Defendants were aware of the overtime requirements of the FLSA and  
22 California law.

23      106.    Defendants nonetheless failed to pay the full overtime premium owed to certain  
24 non-exempt hourly and salaried employees, such as Madriz and Ulloa.

25      107.    Defendants' failure to pay overtime to these non-exempt workers was, and is, a  
26 willful violation of the FLSA and California law.

27      108.    The full overtime wages owed to Madriz, Ulloa, and the Similarly Situated  
28 Workers became "unpaid" when the work for Defendants was done—that is, on Madriz,

1 Ulloa, and the Similarly Situated Workers' regular paydays. *E.g., Martin v. United States*, 117  
 2 Fed. Cl. 611, 618 (2014); *Biggs v. Wilson*, 1 F.3d 1537, 1540 (9th Cir.1993); *Cook v. United States*,  
 3 855 F.2d 848, 851 (Fed. Cir. 1988); *Olson v. Superior Pontiac-GMC, Inc.*, 765 F.2d 1570, 1579  
 4 (11th Cir.1985), *modified*, 776 F.2d 265 (11th Cir.1985); *Atlantic Co. v. Broughton*, 146 F.2d 480,  
 5 482 (5th Cir.1944); *Birbalas v. Cuneo Printing Indus.*, 140 F.2d 826, 828 (7th Cir.1944).

6 109. At the time Defendants failed to pay Madriz, Ulloa, and the Similarly Situated  
 7 Workers in full for their overtime hours by their regular paydays, Defendants became liable  
 8 for all prejudgment interest, liquidated damages, penalties, and any other damages owed  
 9 under federal and California law.

10 110. In other words, there is no distinction between late payment and nonpayment  
 11 of wages under federal or California law. *Biggs v. Wilson*, 1 F.3d 1537, 1540 (9th Cir.1993).

12 111. Even if Defendants made any untimely payment of unpaid wages due and  
 13 owing to Madriz, Ulloa, or the Similarly Situated Workers, any alleged payment was not  
 14 supervised by the U.S. Department of Labor or any court.

15 112. The untimely payment of overtime wages, in itself, does not resolve a claim for  
 16 unpaid wages under the law. *See, e.g., Seminiano v. Xyris Enterp., Inc.*, 602 Fed.Appx. 682, 683  
 17 (9th Cir. 2015); *Lynn's Food Stores, Inc. v. United States*, 679 F.2d 1350, 1352-54 (11th Cir. 1982).

18 113. Nor does the untimely payment of wages, if any, compensate workers for the  
 19 damages they incurred due to Defendants' acts and omissions resulting in the unpaid wages  
 20 in the first place.

21 114. Madriz, Ulloa, and the Similarly Situated Workers remain uncompensated for  
 22 the wages and other damages owed by Defendants under federal and California law.

#### 23 COLLECTIVE ACTION ALLEGATIONS

24 115. Madriz and Ulloa incorporate all other allegations.

25 116. Numerous individuals were victimized by Defendants' patterns, practices, and  
 26 policies, which are in willful violation of the FLSA.

27

28

1 117. Based on his experiences and tenure with Defendants, Madriz and Ulloa are  
2 aware that Defendants' illegal practices were imposed on the Naked Juice and Tropicana  
3 FLSA Collectives.

4 118. The Naked Juice and Tropicana FLSA Collective members were not paid their  
5 full overtime premiums for all overtime hours worked.

6 119. These employees are victims of Defendants' unlawful compensation practices  
7 and are similarly situated to Madriz and/or Ulloa in terms of the pay provisions and  
8 employment practices at issue in this lawsuit.

9           120. The workers in the Naked Juice and Tropicana FLSA Collectives were similarly  
10           situated within the meaning of the FLSA.

11           121. Any differences in job duties do not detract from the fact that these FLSA non-  
12 exempt workers were entitled to overtime pay.

13 122. Defendants' failure to pay overtime compensation at the rates required by the  
14 FLSA result from generally applicable, systematic policies, and practices, which are not  
15 dependent on the personal circumstances of the Naked Juice and/or Tropicana FLSA  
16 Collective members.

17        123. The Naked Juice and Tropicana FLSA Collectives should be notified of this  
18 action and given the chance to join pursuant to 29 U.S.C. § 216(b).

## CLASS ACTION ALLEGATIONS

20 124. Madriz and Ulloa incorporates all other allegations.

125. The illegal practices Defendants imposed on Madriz and Ulloa were likewise  
imposed on the California Class Members.

23        126. Numerous other individuals who worked for Defendants were not properly  
24 compensated for all hours worked, as required by California law.

25           127. The California Class is so numerous that joinder of all members of the class is  
26 impracticable.

27 128. Defendants imposed uniform practices and policies on Madriz, Ulloa, and the  
28 California Class members regardless of any individualized factors.

1       129. Based on their experience and tenure with Defendants, as well as coverage of  
2 the Kronos hack, Madriz and Ulloa are aware that Defendants' illegal practices were imposed  
3 on the California Class members.

4       130. California Class members were all not paid proper overtime when they worked  
5 in excess of 40 hours per week.

6       131. Defendants' failure to pay wages and overtime compensation in accordance  
7 with California law results from generally applicable, systematic policies, and practices which  
8 are not dependent on the personal circumstances of the California Class Members.

9       132. Madriz and Ulloa's experiences are therefore typical of the experiences of the  
10 California Class members.

11       133. Madriz and Ulloa do not have any interest contrary to, or in conflict with, the  
12 members of the California Class. Like each member of the proposed class, Madriz and Ulloa  
13 have an interest in obtaining the unpaid overtime wages and other damages owed under the  
14 law.

15       134. A class action, such as this one, is superior to other available means for fair and  
16 efficient adjudication of the lawsuit.

17       135. Absent this action, many California Class members likely will not obtain  
18 redress of their injuries and Defendants will reap the unjust benefits of violating California  
19 law.

20       136. Furthermore, even if some of the California Class members could afford  
21 individual litigation against Defendants, it would be unduly burdensome to the judicial  
22 system.

23       137. Concentrating the litigation in one forum will promote judicial economy and  
24 parity among the claims of individual members of the classes and provide for judicial  
25 consistency.

26       138. The questions of law and fact common to each of the California Class members  
27 predominate over any questions affecting solely the individual members. Among the common  
28 questions of law and fact are:

- 1 a. Whether the California Overtime Class Members were not paid  
2 overtime at 1.5 times their regular rate of pay for hours worked in excess  
3 of 40 in a workweek;
- 4 b. Whether the California Overtime Class Members were not paid  
5 overtime at 1.5 times their regular rate of pay for hours worked in excess  
6 of 8 or 12 in a single day; and
- 7 c. Whether Defendants' failure to pay overtime at the rates required by law  
8 violated California law.

9 139. Madriz and Ulloa's claims are typical of the California Class members. Madriz,  
10 Ulloa, and the California Class members have all sustained damages arising out of  
11 Defendants' illegal and uniform employment policies.

12 140. Neither Madriz nor Ulloa know of any difficulty that will be encountered in  
13 the management of this litigation that would preclude its ability to go forward as a class or  
14 collective action.

15 141. Although the issue of damages may be somewhat individual in character, there  
16 is no detraction from the common nucleus of liability facts. Therefore, this issue does not  
17 preclude class action treatment.

18 **FIRST CAUSE OF ACTION—VIOLATION OF THE FLSA**

19 142. Madriz and Ulloa incorporate each other allegation.

20 143. By failing to pay Madriz, Ulloa, and the Naked Juice and Tropicana FLSA  
21 Collective members overtime at 1.5 times their regular rates, Defendants violated the FLSA.  
22 29 U.S.C. § 207(a).

23 144. Defendants owe Madriz, Ulloa, and the Naked Juice and Tropicana FLSA  
24 Collective members overtime for all hours worked in excess of 40 in a workweek, at a rate of  
25 at least 1.5 times their regular rates of pay.

26 145. Defendant owes Madriz, Ulloa, and the Naked Juice and Tropicana FLSA  
27 Collective members the difference between the rate actually paid for overtime, if any, and the  
28 proper overtime rate.

1       146. Defendants knowingly, willfully, or in reckless disregard carried out this illegal  
 2 pattern and practice of failing to pay the Naked Juice and Tropicana FLSA Collective  
 3 members overtime compensation.

4       147. Because Defendants knew, or showed reckless disregard for whether, their pay  
 5 practices violated the FLSA, Defendants owe these wages for at least the past three years.

6       148. Defendants' failure to pay overtime compensation to these Naked Juice and  
 7 Tropicana FLSA Collective members was neither reasonable, nor was the decision not to pay  
 8 overtime made in good faith.

9       149. Because Defendants' decision not to pay overtime was not made in good faith,  
 10 Defendants also owe Madriz, Ulloa, and the Naked Juice and Tropicana FLSA Collective  
 11 members an amount equal to the unpaid overtime wages as liquidated damages.

12       150. Accordingly, Madriz, Ulloa, and the Naked Juice and Tropicana FLSA  
 13 Collective members are entitled to overtime wages under the FLSA in an amount equal to 1.5  
 14 times their regular rates of pay, plus liquidated damages, attorney's fees, and costs.

15       **SECOND CAUSE OF ACTION—FAILURE TO PAY WAGES UNDER CALIFORNIA LAW**

16       151. Madriz and Ulloa incorporate each other allegation.

17       152. The California Labor Code requires that all employees, including Madriz,  
 18 Ulloa, and the California Class, receive 1.5x their hourly rate as overtime premium  
 19 compensation for hours worked over eight in one day. CAL. LAB. CODE § 510 (2017); IWC  
 20 Wage Orders #1-2001 through #17-2001.

21       153. Despite working over 8 hours a day as part of their normal and regular shift,  
 22 Madriz, Ulloa, and the California Class did not receive proper overtime compensation for all  
 23 hours worked over 8 in one day.

24       154. The California Labor Code also requires that all employees, including Madriz  
 25 and the California Class, receive 2x times the overtime premium compensation for hours  
 26 worked over 12 in one day. CAL. LAB. CODE § 510 (2017); IWC Wage Orders #1-2001 through  
 27 #17-2001.

28

1       155. Although Madriz, Ulloa, and the California Class occasionally worked over 12  
2 hours in one day, they did not receive the “double time” compensation required by California  
3 law.

4       156. The California Labor Code requires that all employees, including Madriz,  
5 Ulloa, and the California Class, receive 2x the overtime premium compensation for hours  
6 worked over 8 in one day, in the seventh day of a workweek. CAL. LAB. CODE §§ 510, 551–52  
7 (2017); IWC Wage Orders #1-2001 through #17-2001.

8       157. Although Madriz, Ulloa, and the California Class regularly worked seven days  
9 a week, for at least 12 hours a day, they did not receive the “double time” compensation  
10 required by California law for all hours over eight worked on the seventh day.

11       158. This pattern, practice, and uniform administration of corporate policy  
12 regarding illegal employee compensation is unlawful and entitles Madriz, Ulloa, and the  
13 California Class to recover unpaid balance of the full amount of overtime wages owing,  
14 including liquidated damages, interest, attorneys’ fees, and costs of suit pursuant to California  
15 Labor Code section 1194.

16       **THIRD CAUSE OF ACTION—VIOLATIONS OF RECORD KEEPING REQUIREMENTS**

17       159. Madriz and Ulloa incorporate each other allegation.

18       160. California Labor Code section 226 requires Defendants to keep accurate  
19 records regarding the rates of pay for their California employees and provide that information  
20 to Madriz and the California Class with their wage payment.

21       161. Because Defendants failed to pay Madriz, Ulloa, and the California Class  
22 lawful wages, it did not maintain accurate records of Madriz, Ulloa, and the California Class’s  
23 daily hours, gross wages earned, net wages earned, and the applicable hourly rates, and did  
24 not provide that information to Madriz and the California Class with their wages.

25       162. This pattern, practice, and uniform administration of corporate policy is  
26 unlawful and entitles Madriz, Ulloa, and the California Class to recover all damages and  
27 penalties available by law, including interest, penalties, attorney fees, and costs of suit. CAL.  
28 LAB. CODE § 226(e).

## FOURTH CAUSE OF ACTION—WAITING TIME PENALTIES

163. Madriz and Ulloa incorporate each other allegation.

164. At all relevant times, Defendants were required to pay Madriz, Ulloa, and the  
California Class all wages owed in a timely fashion at the end of employment pursuant to  
California Labor Code sections 201 to 204.

165. As a result of Defendants' alleged California Labor Code violations, Defendants regularly failed to pay Madriz, Ulloa, and the California Class their final wages pursuant to California Labor Code sections 201 to 204, and accordingly Defendants owes liquidated time penalties pursuant to California Labor Code section 203.

166. The conduct of Defendants, in violation of Madriz, Ulloa, and the California  
members' rights, was willful and was undertaken by the agents, employees, and  
counsel of Defendants.

167. Defendants' willful failure to provide Madriz, Ulloa, and the California Class  
ges due and owing them upon separation from employment results in a continuation  
ges up to 30 days from the time the wages were due.

168. Therefore, Madriz, Ulloa, and the California Class members who have  
169. settled from employment are entitled to compensation pursuant to California Labor Code  
170. § 203.

## FIFTH CAUSE OF ACTION—VIOLATION OF UNFAIR COMPETITION LAW

169. Madriz and Ulloa incorporate each other allegation.

170. Defendants have engaged, and continues to engage, in unfair and unlawful  
practices in California by practicing, employing, and utilizing the employment  
practices outlined above by knowingly denying employees: (1) overtime wages required under  
law; (2) overtime wages required by California law; (3) accurate wage statements; and  
retiring time penalties.

171. As a result of Defendants' failure to comply with federal and state law, Defendants have also violated the California Unfair Competition Law ("UCL"), CAL. BUS.

1 & PROF. CODE § 17200, *et seq.*, which prohibits unfair competition by prohibiting any  
 2 unlawful or unfair business actions or practices.

3 172. The relevant acts by Defendants occurred within the four years preceding the  
 4 filing of this action.

5 173. On information and belief, Defendant have engaged in unlawful, deceptive, and  
 6 unfair business practices, pursuant to California's Business and Professions Code section  
 7 17200, *et seq.*, including those set forth above, depriving Madriz and the California Class of  
 8 minimum working condition standards and conditions under California law and IWC Wage  
 9 Orders as set forth above.

10 174. Madriz and the California Class are entitled to restitution for at least the  
 11 following: restitution for unpaid overtime wages and unpaid California Labor Code § 203  
 12 continuation wages.

13 175. Madriz and the California Class are also entitled to permanent injunctive and  
 14 declaratory relief prohibiting Defendants from engaging in the violations and other  
 15 misconduct referred to above.

16 176. Defendants are also liable for fees and costs pursuant to California Code of  
 17 Civil Procedure section 1021.5 and other applicable law.

#### 18 **SIXTH CAUSE OF ACTION—CIVIL PENALTIES UNDER PAGA**

19 177. Madriz and Ulloa incorporate all other allegations.

20 178. Madriz, Ulloa, and the California Class are aggrieved employees within the  
 21 meaning of California Labor Code section 2699.

22 179. As aggrieved employees, Madriz, Ulloa, and the California Class seek to  
 23 recover of civil penalties against Defendants pursuant to the Private Attorneys General Act  
 24 of 2004 (PAGA), CAL. LAB. CODE §§ 2698, *et seq.*

25 180. Defendants has knowingly and intentionally violated the California Labor  
 26 Code and IWC Wage Orders, including by:

27 a. Failing to pay wages (CAL. LAB. CODE §§ 510, 1194, 1194.5; IWC Wage  
 28 Orders #1-2001 through #17-2001);

- b. Failing to provide compensation for missed meal and rest periods (Cal. Lab. Code §§ 226.7, 512; IWC Wage Orders #1-2001 through #17-2001);
- c. Violating record keeping requirements (CAL. LAB. CODE § 226);
- d. Unlawfully collecting, receiving, or withholding wages (CAL. LAB. CODE §§ 221, 225.5);
- e. Failing to pay wages promptly following termination of employment, or when due and payable (CAL. LAB. CODE § 203).

7           181. The civil penalties sought by Madriz, Ulloa, and the California Class include  
8 the recover of amounts specified in the respective sections of the California Labor Code, and  
9 if not specifically provided, those penalties under section 2699(f).

10        182. Madriz, Ulloa, and the California Class seek the full amounts sufficient to  
11 recover unpaid wages, other damages, and necessary expenditures or losses incurred by  
12 Madriz and the California Class pursuant to California Labor Code sections 210, 225.5,  
13 226.3, 226.8, 558(a), 1197(a), 2802, and 2699.

14 183. Madriz, Ulloa, and the California Class will allege any additional violations of  
15 the California Labor Code and IWC Wage Orders as may be disclosed in discovery and as a  
16 result of additional investigation that may be pursued in this action.

17 184. Madriz and Ulloa provided notice to Defendants of their California Labor  
18 Code and IWC Wage Orders violations on March 30, 2022.

185. On the same date, Madriz and Ulloa submitted notice to the California Labor  
and Workplace Development Agency (LWDA) as required by PAGA.

186. Madriz and Ulloa's notice to Defendants and the LWDA advises each of them  
of the intent to prosecute a private enforcement action to assess and recover civil penalties  
under PAGA if the LWDA declines to investigate or prosecute the asserted California Labor  
Code and IWC Wage Orders violations.

187. If the LWDA declines to investigate or prosecute, Madriz, Ulloa, and the  
California Class will pursue their PAGA claims in the course of this action.

27 188. Madriz, Ulloa, and the California Class had to retain counsel to file this action  
28 to protect their interests and to assess and collect the civil penalties owed by Defendants.

189. Madriz, Ulloa, and the California Class have incurred attorneys' fees and costs in prosecuting this action to recover under PAGA.

## RELIEF SOUGHT

190. Madriz and Ulloa pray for judgment against Defendants as follows:

- a. For an order certifying collective actions for the Naked Juice and Tropicana FLSA Collectivees;
- b. For an order certifying a class action for the California law claims;
- c. For an order finding Defendants liable for violations of state and federal wage laws with respect to Madriz, Ulloa, and all Naked Juice FLSA Collective, Tropicana FLSA Collective, and California Class members covered by this case;
- d. For a judgment awarding all unpaid wages, liquidated damages, and penalty damages, to Madriz, Ulloa, and all Naked Juice FLSA Collective, Tropicana FLSA Collective, and California Class members covered by this case;
- e. For an order awarding restitution to Madriz, Ulloa, and all California Class members covered by this case;
- f. For a judgment awarding costs of this action to Madriz, Ulloa, and all Naked Juice FLSA Collective, Tropicana FLSA Collective, and California Class members covered by this case;
- g. For a judgment awarding attorneys' fees to Madriz, Ulloa, and all Naked Juice FLSA Collective, Tropicana FLSA Collective, and California Class members covered by this case;
- h. For a judgment awarding pre- and post-judgment interest at the highest rates allowed by law to Madriz, Ulloa, and all Naked Juice FLSA Collective, Tropicana FLSA Collective, and California Class members covered by this case; and
- i. For all such other and further relief as may be necessary and appropriate.

Respectfully submitted,

PARMET PC

*/s/ Matthew S. Parmet*

By: \_\_\_\_\_  
**Matthew S. Parmet**

### Attorneys for Plaintiffs